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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,300	02/21/2002	Holger Warth	Mo6879/LeA 33,977	8773
157	7590	01/07/2004	EXAMINER	
BAYER POLYMERS LLC 100 BAYER ROAD PITTSBURGH, PA 15205			CHANG, VICTOR S	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 01/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/080,300

Applicant(s)

WARTH ET AL.

Examiner

Victor S Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-24,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-24,26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendments and remarks filed on 11/7/2003. Applicant's amendments to claims 1, 2, 5, 12, 14, 19, 23, cancellation of claims 3 and 25, and newly added claims 26 and 27 have all been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Rejections not maintained are withdrawn.

### *Response to Amendment*

4. Claims 1, 2 and 4-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Padwa et al. (US 5910538), substantially for the reasons set forth in section 5 of Paper No. 0708, together with the following additional observations.

It is noted that newly amended claim 1, line 4, now recites "1 to 3%, relative to the weight of the composition" for component C.

With respect to Applicant's response arguing that the amended claim 1 is unanticipated by Padwa (Remarks, page 7, 4<sup>th</sup> paragraph), the Examiner repeats (see Paper No. 0708, page 3) that Padawa teaches that component B (which corresponds to Applicants' component C) comprises 4.5 to 70 pbw of a vinyl copolymer containing 50 to 99 wt% of the copolymer of at least one member selected from the group consisting of styrene, alpha-methyl styrene, etc. and 1 to 50 wt% of the copolymer of at least one

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member selected from the group consisting of acrylonitrile, maleic anhydride, etc. (column 1, lines 49-56). One of ordinary skill in the art would find that the calculated starting point of the weight of copolymer, relative to the composition, would be 2.25 pbw (4.5 pbw x 50 wt%). As such, clearly Padawa still anticipates the instantly claimed invention, and the prior rejection is still deemed proper.

5. Claims 19-24, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reihs et al. (US 6296908) in view of Padwa et al. (US 5910538), substantially for the reasons set forth in section 7 of Paper No. 0708, together with the following additional observations.

With respect to Applicants' argument that "neither Reihs nor Padwa disclose, teach or suggest the exceptional inter-layer adhesive properties of the multilayered composites of Applicants' claims" (Remarks, page 8, first full paragraph), the Examiner notes that since Padwa's teaching anticipates the composition of the instantly claimed invention, as set forth above, it is believed that the inter-layer adhesion properties are also either inherently disclosed, or an obvious optimization to one of ordinary skill in the art, motivated by the desire to form a durable laminate. It should be noted that where the claimed and prior art products are identical or substantially identical in structure or composition, or are produced by identical or substantially identical processes, a prima facie case of either anticipation or obviousness has been established. See MPEP § 2112.01.

With respect to Applicants' arguments that Masuda reference "is not cited in the Office action as or as part of a rejection" and "Masuda does not disclose or suggest the

presence of a polycarbonate layer ..." (Remarks, page 8, paragraphs 3 and 4), the Examiner notes that Masuda is clearly cited as an evidence that an automotive interior laminate formed of PVC and PU layers is well known art (see Paper No. 0908, page 5), and Applicants' argument that Masuda does not disclose polycarbonate composition of the instant invention is not persuasive, since Applicants argue the cited reference individually. In response to Applicants' argument, it is asserted that one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding newly added claims 26 and 26, the claims are substantially within the same scope of elements and limitations as claims 1 and 19, and as such are rejected for the reasons as set forth above.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Victor S Chang  
Examiner  
Art Unit 1771

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 1300-  
1700

*Daniel Zinker*